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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,401	03/09/2004	Marc Radow	501120-014	5592
7590		12/14/2007		
Marc Radow 1900 Joy Lake Road Reno, NV 89511				
			EXAMINER GROSSO, HARRY A	
			ART UNIT 3781	PAPER NUMBER
			MAIL DATE 12/14/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/797,401

Applicant(s)

RADOW, MARC

Examiner

Harry A. Grosso

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-28 is/are pending in the application.
- 4a) Of the above claim(s) 24-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 24, 2007 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The rejection of claims 21- under 35 U.S.C. 112, first and second paragraphs, has been overcome by the amendment filed September 24, 2007. The rejection is withdrawn.

### ***Claim Objections***

3. Claims 16 and 18 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 16 and 18 both address the height of the raised portion as being below the height of the rim, however, both of these claims depend on claim 14 which states that the height of the raised portion is approximately half of the height of the rim ( the first distance). Thus, claims 16 and 18 are not further limiting since they would allow the height of the raised portion to be any dimension below the height of the rim.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 6-8, 10, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jonas et al (5,234,126) (Jonas) in view of Echternach (GB 2 119 743 A, November 23, 1983).

6. Regarding claim 1, Jonas discloses a receptacle having a recessed portion (Figure 5), a convex raised portion (12) and a vertical outer wall (11). The raised portion is substantially circular and can have an outer diameter (G) of approximately two inches to less than 6 inches as seen in Figure 5 where G is 1.830 inches (column 9, lines 53-59 and column 12, lines 15-21) and in column 16, lines 11-15 where dimension B is defined as being in the range of 0.8879 inch to 3.6219 and G is greater than B by some dimension less than 1 inch. Jonas does not teach the outer wall extending upwardly a second distance to a rim with an opening dimension greater than the second distance. Echternach discloses a similar container for use in similar processing with an outer wall portion extending upwardly a second distance to a rim (Figure 3) with an opening dimension greater than the second distance (page 2, lines 94-99). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of an outer wall portion extending upwardly a second distance to a rim with an opening dimension greater than the second distance as disclosed by

Echternach in the receptacle disclosed by Jonas since it is known in the art to utilize containers with these dimensions.

7. Regarding claim 2, Jonas discloses the raised portion is a continuous closed surface.

8. Regarding claim 3, Jonas discloses the raised portion is substantially dome shaped.

9. Regarding claims 4 and 5, Jonas as modified by Echternach discloses the claimed invention except for the distance from the recessed portion to the top-most portion of the raised portion being three quarter inch, which is greater than approximately 1/2 inch. It would have been an obvious matter of design choice to have made the distance from the recessed portion to the top-most portion of the raised portion three quarter inch, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

10. Regarding claim 6, Jonas discloses a substantially flat surface in the recess (25).

11. Regarding claim 7, Jonas discloses the outer wall portion extends substantially vertically.

12. Regarding claim 8, Jonas discloses the outer wall portion forms a substantially circular wall.

13. Regarding claim 10, the container of Jonas as modified by Echternach would have a second distance that is at least twice the first distance.

14. Regarding claim 12, Jonas discloses a receptacle having a recessed portion (Figure 5), a convex raised portion (12) and a vertical outer wall (11). Jonas does not teach the outer wall extending upwardly a second distance to a rim with an opening dimension greater than the second distance. Echternach discloses a similar container for use in similar processing with an outer wall portion extending upwardly a second distance to a rim (Figure 3) with an opening dimension greater than the second distance (page 2, lines 94-99). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of an outer wall portion extending upwardly a second distance to a rim with an opening dimension greater than the second distance as disclosed by Echternach in the receptacle disclosed by Jonas since it is known in the art to utilize containers with these dimensions. Echternach further discloses that the second distance in one embodiment is 1.750 inches which is approximately 2 inches, approximately being a term that allows some variance. Additional, Echternach discloses that the container can be a 307 x 200.25 can (3.4375 inch diameter by 2.0156 inch height).

15. Regarding claim 13, Jonas discloses the raised portion and the outer wall portion extend substantially in a circle.

16. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jonas as modified by Echternach in view of Sugiyama et al, of record

17. Jonas as modified by Echternach discloses the invention except that the second distance is approximately twice the first distance. Sugiyama et al discloses a similar receptacle with a raised portion that has a vertical height approximately half the second

distance (Figures 1 and 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a raised portion that has a vertical height approximately half the second distance as disclosed by Sugiyama et al in the receptacle disclosed by Jonas as modified by Echternach since this capability is known in the art and can provide increased strength.

18. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harvey (3,272,383) in view of Echternach and Sugiyama et al.

19. Regarding claim 14, Harvey discloses a receptacle having an upper rim (22, Figures 1-2), an outer wall portion (21) and a bottom portion with a flat surface (35) and a raised portion (C) extending substantially constantly upwardly to a center of the receptacle. Harvey does not teach a first distance between the rim and the base is between one-quarter and two inches. Echternach discloses a similar container for use in similar processing with an outer wall portion extending upwardly a second distance to a rim (Figure 3) with a first distance of 1.750 inches (page 2, lines 94-99). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a first distance between the rim and the base of 1.750 inches to the base as disclosed by Echternach in the receptacle disclosed by Jonas since it is known in the art to utilize containers with these dimensions.

20. Harvey as modified by Echternach discloses the invention except that the raised portion has a vertical height half the first distance. Sugiyama et al discloses a similar receptacle with a raised portion that has a vertical height approximately half the first distance (Figures 1 and 4). It would have been obvious to one of ordinary skill in the art

at the time the invention was made to have incorporated the use of a raised portion that has a vertical height approximately half the first distance as disclosed by Sugiyama et al in the receptacle disclosed by Harvey as modified by Echternach since this capability is known in the art and to provide increased strength.

21. Regarding claim 15, Harvey discloses the raised portion is convex.
22. Regarding claim 16, Harvey discloses the raised portion peaks below the rim.
23. Regarding claim 17, Harvey discloses the wall portion is substantially vertical.
24. Regarding claim 18, the outer wall portion of Harvey as modified by Echternach and Sugiyama et al extends above the raised portion.
25. Claims 19 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Biggins, of record, in view of Jonas, Echternach and Sugiyama et al.
26. Regarding claim 19, Biggins discloses a round container (Figures 1-2) with an upper rim (6), a vertical outer wall portion (3), a base portion with a flat surface facing upwardly (15), a raised portion extending inwardly from the base portion (14), and a round rimming dish (8) having a recessed area and a raised area of a size to allow manual grasping of the raised area.
27. Biggins does not teach that the raised portion of the container extends substantially constantly upwardly toward a center of the receptacle. Jonas discloses a similar container and a convex raised portion extending inwardly from the base portion and substantially constantly upwardly toward a center of the receptacle (Figure 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a convex raised portion extending substantially

constantly upwardly toward a center of the receptacle as disclosed by Jonas in the receptacle disclosed by Biggins since it is known in the art that a raised portion of this configuration will provide increased strength against internal force pressing down on the raised portion.

28. Biggins and Jonas do not teach a first distance between the rim and the base is between one-quarter and two inches. Echternach discloses a similar container with an outer wall portion extending upwardly a second distance to a rim (Figure 3) with a first distance of 1.750 inches (page 2, lines 94-99). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a first distance between the rim and the base of 1.750 inches to the base as disclosed by Echternach in the receptacle disclosed by Biggins and Jonas since it is known in the art to utilize containers with these dimensions.

29. Biggins as modified by Jonas and Echternach does not teach that the raised portion has a vertical height approximately half the first distance. Sugiyama et al discloses a similar receptacle with a raised portion that has a vertical height approximately half the first distance (Figures 1 and 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a raised portion that has a vertical height approximately half the first distance as disclosed by Sugiyama et al in the receptacle disclosed by Biggins as modified by Jonas and Echternach since this capability is known in the art and to provide increased strength.

30. Regarding claim 20, Biggins discloses a lid sized to fit over the container rim (7).

31. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harvey in view of Lyu et al.

32. Regarding claims 21 and 22, Harvey discloses a receptacle having an upper rim (22, Figures 1-2), an outer wall portion (21) and a bottom portion with a flat surface (35) and a raised portion (C) extending upward to an upper position below the rim. Harvey does not teach the upper position is greater than or equal to about one-half inch and less than two inches. Lyu et al discloses a similar receptacle with a raised portion in the bottom (Figure 1) and the upper position (H2) would be about one-half inch for a receptacle having a diameter of about 3.5 inches and increases to other heights less than two inches as the receptacle diameter increases. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of raised center portion having an upper position greater than or equal to about one-half inch and less than two inches as disclosed by Lyu et al in the receptacle disclosed by Harvey since it is known in the art to use a raised portion with these dimensions in similar containers.

33. Regarding claim 23, Harvey discloses the raised portion has a curvature over substantially is entire surface.

### ***Response to Arguments***


34. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Anthony Stashick  
Supervisory Patent Examiner  
Art Unit 3781

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